

House Bill 351

By: Representatives Stephens of the 164<sup>th</sup>, O'Neal of the 146<sup>th</sup>, Royal of the 171<sup>st</sup>, Day of the 163<sup>rd</sup>, Lewis of the 15<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, collection, and assessment of sales and use taxes, so as to change certain provisions regarding imposition and collection of such tax; to change certain provisions regarding burden of proof regarding sales; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, collection, and assessment of sales and use taxes, is amended in Code Section 48-8-30, relating to imposition of such tax, by striking paragraph (1) of subsection (f) and inserting in its place a new paragraph (1) to read as follows:

~~“(f)(1) Every person purchasing or receiving any service within this state, the purchase of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 percent of the gross charge or charges made for the purchase. The tax shall be paid by the person purchasing or receiving the service to the person furnishing the service. The person furnishing the service, as a dealer under this article, shall remit the tax to the commissioner as provided in this article; and, when received by the commissioner, the tax shall be a credit against the tax imposed on the person furnishing the service. Every person furnishing a service, the purchase of which is a retail sale, shall be a dealer and shall be liable for a tax on the sale at the rate of 4 percent of the gross charge or charges made for furnishing the service, or the amount of taxes collected by him from the person to whom the service is furnished, whichever is greater. The tax shall be paid by the person purchasing or receiving the service to the retailer selling the service. The retailer, as a dealer under this article, shall remit the tax to the commissioner as provided in this article; and when received by the commissioner, the tax shall be a credit against the tax imposed on the person selling the service. Every person selling a service, the purchase~~

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1 of which is a retail sale, shall be a dealer and shall be liable for a tax on the sale at the rate  
2 of 4 percent of the sales price of the service, or the amount of taxes collected by him or  
3 her from the person to whom the services are sold."

#### 4 **SECTION 2.**

5 Said part is further amended by striking subsection (a) of Code Section 48-8-38, relating to  
6 burden of proof regarding sales, and inserting in its place a new subsection (a) to read as  
7 follows:

8 "(a) All gross sales of a retailer are subject to the tax imposed by this article until the  
9 contrary is established. The burden of proving that a sale of tangible personal property or  
10 services is not a sale at retail is upon the person who makes the sale unless he or she takes  
11 from the purchaser a certificate stating that the property is purchased for resale."

#### 12 **SECTION 3.**

13 This Act shall become effective on July 1, 2005.

#### 14 **SECTION 4.**

15 All laws and parts of laws in conflict with this Act are repealed.